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February 8, 2012

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Rules and Regulations
Implementing the Telephone Consumer Protection
Act of 1991, CG Docket No. 02-278

Dear Ms. Dortch:

On February 8, 2012, Virginia O'Neill of the American Bankers Association, Jason Goldman of the U.S. Chamber of Commerce, Adam Peterman of ACA International, David Pommerehn of the Consumer Bankers Association, Gina Ronzello of the Cargo Airlines Association, and the undersigned met with Angela Kronenberg, Legal Advisor to Commissioner Clyburn, to discuss the Notice of Proposed Rulemaking (NPRM) in the above-referenced docket that was released on January 22, 2010.

We explained that paragraph 20 of the NPRM could be read to suggest that the Commission was considering requiring prior express written consent for all automated calls to residential phone lines and wireless numbers, including non-telemarketing calls. We asserted that none of the statutes or legal authorities the NPRM cited as authorizing the Commission to adopt the proposed rules were targeted at non-telemarketing calls, and we noted that adopting such a broad rule would be inconsistent with the FTC's 2008 amended rules, which govern only telemarketing calls.

We also expressed concern that the imposition of a prior express written consent requirement on informational calls would unnecessarily interfere with non-telemarketing communications between businesses and their consumers, and could deprive consumers of timely access to important information about an existing product, service, or account. We provided examples of valuable informational calls that would be adversely affected if prior written consent is required.

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This letter is being filed electronically pursuant to Section 1.1206 of the Commission's Rules. If you have any questions, please contact the undersigned.

Sincerely,

Howard Waltzman

cc: (via e-mail)
Angela Kronenberg